

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

O'SHEA MANN,
Plaintiff,

v.

A. GARCIA, et al.,
Defendants,

CASE NO. 1:21-cv-00764 AWI-EPG

ORDER SETTING SETTLEMENT
CONFERENCE AND PARAMETERS AND
SCHEDULING PRE-CONFERENCE
TELEPHONIC DISCUSSION

Settlement Statements due: November 26, 2021
Pre-settlement Conference: December 3, 2021
Settlement Conference: December 10, 2021

Magistrate Judge Helena Barch-Kuchta will hold a settlement conference on **December 10, 2021 at 10:00 a.m.** via video teleconference. The Zoom settlement conference invitation will be distributed the week prior.¹ The court has reserved the day for this settlement conference and expects the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be productive, that party shall so inform the court as far in advance of the settlement conference as possible.

¹Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Kirstie Dunbar-Kari, Courtroom Deputy for the Hon. Helena Barch-Kuchta, United States Magistrate Judge, at kdunbar-kari@caed.uscourts.gov.

1 Unless otherwise permitted in advance by the court, the following individuals must attend the
2 settlement conference in person: (1) all of the attorney(s) who will try the case; (2) the plaintiff;² and (3)
3 individuals with full authority to negotiate and settle the case, on any terms.³ See Local Rule 270(f).

4 **No later than two weeks prior to the settlement conference**, each party must submit to Judge
5 Barch-Kuchta's chambers at hbkorders@caed.uscourts.gov or by mail at U.S. District Court, P.O. Box
6 575, Yosemite National Park, CA 95389, a settlement conference statement. These statements should
7 neither be filed on the docket nor served on any other party.

8 In compliance with Local Rule 270(d)-(e), the settlement statements will be used exclusively for
9 the undersigned to prepare for and conduct the settlement conference. They will not become part of the
10 case file and will be shred thereafter under Local Rule 270(e). If applicable, the statements should be
11 marked "CONFIDENTIAL." See Local Rule 270(d).

12 The statements should not exceed ten (10) pages and should include:

13 (1) a brief recitation of the facts;

14 (2) a discussion of the strengths and weaknesses of the case, including the parties' relevant
15 position on the factual and legal issues and brief review of the evidence to support the parties' factual
16 position;

17 (3) an itemized estimate of the expected costs for further discovery, pretrial, and trial matters, in
18 specific dollar terms;

19 (4) your best estimate of the probability that plaintiff will prevail should this case proceed to
20 trial;

21 (5) your best estimate of the damages or relief plaintiff may recover should this case proceed to
22 trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if applicable);

23 (6) a history of settlement discussions (including a listing of any current settlement offers from
24 any party, in specific dollar terms), a candid statement of your party's current position on settlement,
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26 ² Considering Plaintiff's incarceration, the Court will issue a writ for Plaintiff to appear by zoom video
27 conference.

28 ³ Because this is an early settlement conference occurring prior to the filing of dispositive motions in the case,
the undersigned will not require the individual defendants to appear for the settlement conference by zoom.

1 including **the amount that you will give/accept to settle** (in specific dollar terms), and a statement of
2 your expectations for settlement discussions;


3 (7) a list of the individuals who will be attending the settlement on the party's behalf, including
4 names and, if appropriate, titles.

5 At the outset of the settlement conference, the undersigned may call upon the parties' counsel to
6 give a brief (five-minute) opening presentation outlining the factual and legal highlights of their case
7 before the parties break into separate caucuses. The undersigned reserves the right to dispense with the
8 opening presentations of counsel if the undersigned determines that such presentations are not likely to
9 be productive.

10 Notwithstanding the provisions of Federal Rule of Evidence 408, all statements made by the
11 parties relating to the substance or merits of the case, whether written or oral, made for the first time
12 during the settlement conference will be deemed to be confidential and shall not be admissible in
13 evidence for any reason in the trial of the case, should the case not settle. This provision does not
14 preclude admissibility in other contexts, such as pertaining to a motion for sanctions regarding the
15 settlement conference.

16 Judge Barch-Kuchta will hold a short, pre-settlement conference telephone discussion on
17 **December 3, 2021 at 10:00 a.m.** (dial-in number: 1-888-204-5984; passcode: 4446176). Only the lead
18 attorney from each side⁴ should participate. At Judge Barch-Kuchta's discretion, the joint telephonic
19 discussion may be followed by private telephonic discussions between the judge and each party.

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22 Dated: October 19, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

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28 ⁴ The court expects that the attorneys participating in the telephone discussion will also participate in the settlement conference.

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